

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

NEW HAMPSHIRE MOTOR TRANSPORT
ASSOCIATION, MASSACHUSETTS MOTOR
TRANSPORTATION ASSOCIATION, INC.,
AND VERMONT TRUCK & BUS
ASSOCIATION, INC.,

Plaintiffs,

-v-

G. STEVEN ROWE, in his official capacity as
Attorney General of the State of Maine,

Defendant.

Case No. 1:03-cv-178-DBH

**DECLARATION OF ALICE ENNIS
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Alice Ennis, declare:

1. I have personal knowledge of the facts set forth below, and if called as a witness, I could and would so testify to them.

A. The Vermont Truck & Bus Association, Inc..

2. I am the Executive Director of the Vermont Truck & Bus Association, Inc. (the “VTBA”). The VTBA represents diverse interests and members of the trucking community in the State of Vermont. We speak on behalf of our members and Vermont’s trucking industry in a variety of forums including state and federal legislatures, regulatory agencies, the public, and the media. The VTBA’s purposes include promoting the business of motor carrier transportation; enhancing the industry’s efficiency, productivity and competitiveness; and promoting highway safety.

3. Founded in 1928, the VTBA is a non-profit trade association that has more than 200 members. Our members operate trucks and truck fleets ranging from family-owned trucking businesses based in Vermont to large enterprises headquartered elsewhere. Many of our trucking members are engaged in the commercial delivery of packages containing property, including, in some instances, tobacco products. These members include national interstate package carriers, such as United Parcel Service and Federal Express, as well as truckload carriers, regional carriers, and courier services, both interstate and local.

4. The laws challenged in this action — Me. Rev. Stat. Ann. tit. 22, §§ 1555-C(3)(A) and (C) and § 1555-D (the “Challenged Provisions”) — are of great concern to the VTBA because they regulate to and from whom delivery services may deliver particular commodities in Maine, as well as the manner in which deliveries of those commodities must be performed. These laws explicitly affect the services of those of the VTBA’s delivery service members that are, have been, and/or desire to be engaged in the transportation of tobacco products to consignees in Maine, among other states. In addition, Me. Rev. Stat. Ann. tit. 22, § 1555-D(1) provides that a delivery service will be deemed to know that a package contains tobacco products if it is marked in accordance with Me. Rev. Stat. Ann. tit. 22, § 1555-C, or is sent by a known unlicensed retailer on a list produced by

the Attorney General. As a result, the VTBA's members that make deliveries in Maine must ensure that, if any such packages come into their systems, they are delivered only if the shipper of the packages are licensed Maine retailers, or if the packages are addressed to consignees who are licensed distributors or retailers. Thus, the Challenged Provisions explicitly affect the services of all of the VTBA's members that make deliveries in Maine. Accordingly, this action is germane to the VTBA's purposes of serving and representing the interests of the trucking industry, supporting laws and regulations that benefit the motor carrier industry, and advancing the interests of highway transportation.

B. The Threat To The VTBA's Delivery Service Members.

5. The penalties for violations of the Maine Statute expose both a delivery service and its offending employee to a civil fine of up to \$1,500 for each violation of Section 1555-D. In addition, they face penalties for violation of the Maine Unfair Trade Practices Act.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Barre, Vermont, on October 14, 2003.

/s/

Alice Ennis
Executive Director
Vermont Truck & Bus Association, Inc.